

# Calendar No. 1253

77TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
No. 1214

## KARL K. WILKES

MARCH 26 (legislative day, MARCH 5), 1942.—Ordered to be printed

Mr. BROWN, from the Committee on Claims, submitted the following

### REPORT

[To accompany H. R. 4625]

The Committee on Claims, to whom was referred the bill (H. R. 4625) for the relief of Karl K. Wilkes, having considered the same, report favorably thereon with the recommendation that the bill do pass without amendment.

The facts are fully set forth in House Report No. 1783, Seventy-seventh Congress, second session, which is appended hereto and made a part of this report.

[H. Rept. No. 1783, 77th Cong., 2d sess.]

The Committee on Claims, to whom was referred the bill (H. R. 4625) for the relief of Karl K. Wilkes, having considered the same, report favorably thereon with an amendment and recommend that the bill, as amended, do pass.

The amendment is as follows:

At the end of the bill add: "*Provided*, That no part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000."

The purpose of the proposed legislation is to pay to Karl K. Wilkes, of Jackson, Tenn., the sum of \$308.35, representing the amount of fees earned by him from July 10 to November 7, 1940, both dates inclusive, while acting as United States commissioner at Jackson, Tenn.

#### STATEMENT OF FACTS

According to the report of the Comptroller General of the United States, an examination of the accounts submitted to them by Karl K. Wilkes, United States commissioner for the western district of Tennessee, eastern division, for the quarters ending July 31, and October 31, 1940, discloses that fees, aggregating \$308.35, were claimed by him for services rendered from July 10 to October 31, 1940, and were disallowed because claimant's term as United States commissioner expired on July 9, 1940, and his reappointment for another term did not become effective until November 8, 1940. Said fees, amounting to \$308.35,

would have been allowable except for the circumstance that the services for which the fees were claimed were rendered by the commissioner in a de facto capacity.

The Comptroller General concludes that—

"Under the circumstances appearing I believe the bill meritorious, and that it should have favorable consideration by the Congress."

Your committee concur in the recommendation of the Comptroller General, and recommend that the bill be passed. Appended hereto is the report of the Comptroller General, together with other pertinent evidence.

GENERAL ACCOUNTING OFFICE,  
Washington, July 8, 1941.

Hon. DAN R. McGEHEE,  
Chairman, Committee on Claims,  
House of Representatives.

MY DEAR MR. CHAIRMAN: Further reference is made to your letter of June 19, 1941, acknowledged June 20, requesting a report on H. R. 4625 (77th Cong.), entitled "A bill for the relief of Karl K. Wilkes," which bill provides as follows: "That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Karl K. Wilkes, United States Commissioner, of Jackson, Tennessee, the sum of \$308.35. Such sum represents the amount of fees earned by the said Karl K. Wilkes from July 10, 1940, to November 7, 1940, both dates inclusive, while acting as United States Commissioner at Jackson, Tennessee, but not paid because his term as United States Commissioner expired on July 9, 1940, and his appointment for another term was not effective until November 8, 1940."

An examination of the accounts submitted to this Office by Karl K. Wilkes, United States commissioner for the western district of Tennessee, eastern division, for the quarters ending July 31, 1940, and October 31, 1940, discloses that fees, aggregating \$308.35, were claimed by him for services rendered from July 10 to October 31, 1940, and were disallowed because claimant's term as United States commissioner expired on July 9, 1940, and his reappointment for another term did not become effective until November 8, 1940. Said fees, amounting to \$308.35, would have been allowable except for the circumstance that the services for which the fees were claimed were rendered by the commissioner in a de facto capacity. See *Bedeau v. United States* (130 U. S. 439 and 9 Comp. Dec. 167).

Under the circumstances appearing I believe the bill meritorious and that it should have favorable consideration by the Congress.

Sincerely yours,

LINDSAY C. WARREN,  
Comptroller General of the United States.

STATE OF TENNESSEE,  
County of Madison, ss:

Personally appeared before me, I. M. Vaughn, a notary public in and for said State and county, duly commissioned, sworn and acting, Karl K. Wilkes, with whom I am personally acquainted and who, after being first duly sworn, made oath to the following facts:

That all fees charged in his said account as United States commissioner at Jackson, Tenn., from July 10 to November 7, 1940, are the regular statutory fees as allowed United States commissioners under the law and that they are the same fees as would have been charged and allowed had he been reappointed on the expiration date of his commission, and had he been duly and properly qualified to act as United States commissioner.

That the fees charged in each case against the defendants are the regular statutory fees allowed United States commissioners in such cases.

Witness my hand on this the 20th day of June 1941.

KARL K. WILKES.

Sworn to and subscribed before me, this the 20th day of June 1941.

[SEAL]

I. M. VAUGHN, Notary Public.

My commission expires April 18, 1943.

STATE OF TENNESSEE,  
County of Madison, ss:

Personally appeared before me, I. M. Vaughn, a notary public in and for said State and county, duly commissioned, sworn and acting, Karl K. Wilkes, with whom I am personally acquainted and who, after being first duly sworn, made oath to the following facts:

That he is a resident citizen of Jackson, Madison County, Tenn., and has resided in said city since the year 1912; that on July 9, 1936, he was appointed United States commissioner for the western district of Tennessee, eastern division, at Jackson, Tenn., by the Honorable John D. Martin, United States district judge; that he qualified on said date and proceeded to enter upon the duties of such office; that his term of said appointment was for 4 years and expired on July 9, 1940; that he overlooked the expiration date of his appointment, also the United States district attorney, Hon. William McClanahan, and Judge John D. Martin overlooked same and consequently he was not reappointed on said date of expiration; that he continued to serve as United States commissioner from July 10 to November 7, 1940, when he was reappointed by the Honorable Marion S. Boyd, United States district judge; that his account for fees as such commissioner was itemized according to law for said period, July 10 to November 7, 1940, and forwarded to the district attorney general's office, Memphis, Tenn., where it was audited and approved; that said account was made out according to law and properly sworn to by him; that the amount of such fees or account was the sum of \$308.35; that said account is true and correct and has not been paid; that he performed the services charged for in said account.

Witness my hand on this the 13th day of June 1941.

KARL K. WILKES.

Sworn to and subscribed before me on this the 13th day of June 1941.

[SEAL]

I. M. VAUGHN, *Notary Public*.

My commission expires April 18, 1943.



